



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2013

Ms. Zeena Angadicheril
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2013-12369

Dear Ms. Angadicheril:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 493544 (UT OGC #149730).

The University of Texas Medical Branch at Galveston (the "university") received a request for information related to an investigation involving the requestor's client and her termination, specifically (1) any and all statements made by the requestor's client; (2) all associated documentation provided by the requestor's client; and (3) a copy of the completed investigation. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which consists of a representative sample.¹

Initially, you note the requestor asks the university to return his client's personal belongings, including a "USB jump drive." The Act is applicable to "public information," which, as defined by section 552.002 of the Government Code, consists of information collected,

¹We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body if the governmental body owns the information or has a right of access to it. *See* Gov't Code § 552.002(a). This office has concluded that tangible physical items are not "information," as that term is contemplated under the Act. *See* Open Records Decision No. 581 (1990). Upon review, we agree the requestor's personal belongings constitute tangible physical items that are not public information for purposes of the Act, and the Act does not require the university to make these items available to the requestor. *See* Gov't Code §§ 552.002, .021.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses confidentiality provisions such as section 161.032 of the Health and Safety Code, which provides in relevant part:

(c) Records, information, or reports of a . . . compliance officer and records, information, or reports provided by a . . . compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under [the Act].

...

(e) The records, information, and reports received or maintained by a compliance officer retain the protection provided by this section only if the records, information, or reports are received, created, or maintained in the exercise of a proper function of the compliance officer as provided by the Office of Inspector General of the United States Department of Health and Human Services.

(f) This section . . . do[es] not apply to records made or maintained in the regular course of business by a hospital, . . . university medical center or health science center, [or] hospital district[.]

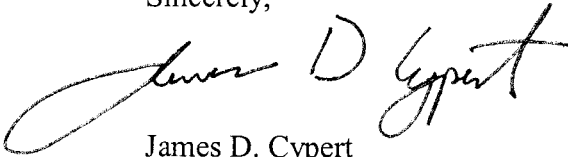
Health & Safety Code § 161.032(c), (e), (f). You inform us the responsive information relates to a complaint that was directed to the university's Office of Institutional Compliance ("OIC") and reviewed by the university's compliance officers. You state the OIC initiated an investigation of the complaint pursuant to the university's compliance program. You explain the information at issue was created for and is part of the compliance file for the complaint at issue and is not maintained in the regular course of business. *Cf. Texarkana Mem'l Hosp., Inc. v. Jones*, 551 S.W.2d 33, 35 (Tex. 1977) (defining records made or maintained in regular course of business). Based on your representations and our review, we conclude the responsive information consists of records, information, or reports of a compliance officer acting under subchapter D of chapter 161 of the Health and Safety Code.

Therefore, the university must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Cypert", written in a cursive style.

James D. Cypert
Assistant Attorney General
Open Records Division

JDC/ac

Ref: ID# 493544

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

